

HB0174S01 compared with HB0174

~~{deleted text}~~ shows text that was in HB0174 but was deleted in HB0174S01.

inserted text shows text that was not in HB0174 but was inserted into HB0174S01.

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Representative Patrick Painter proposes the following substitute bill:

SALES AND USE TAX ALLOCATIONS FOR WATER RESOURCES ~~{CONSTRUCTION FUND}~~ FUNDING

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrick Painter

Senate Sponsor: _____

LONG TITLE

General Description:

This bill allocates certain sales and use taxes ~~{to the Water Resources Construction Fund}~~ for water resources funding.

Highlighted Provisions:

This bill:

- ▶ allocates certain sales and use tax revenues to the Water Resources ~~{Construction}~~ Conservation and Development Fund;
- ▶ modifies the funding sources for the Water Resources ~~{Construction}~~ Conservation and Development Fund to include the sales and use tax allocations; and
- ▶ makes technical and conforming changes.

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Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2012.

Utah Code Sections Affected:

AMENDS:

59-12-103, as last amended by Laws of Utah 2011, Chapters 285, 303, 342, and 441

~~**73-10-8**~~**73-10-25**, as last amended by Laws of Utah ~~2011~~**1991, First Special**

Session, Chapter ~~342~~**4**

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-12-103** is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

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- (v) fuel oil; or
- (vi) other fuels;
- (d) sales of the following for residential use:

- (i) gas;
- (ii) electricity;
- (iii) heat;
- (iv) coal;
- (v) fuel oil; or
- (vi) other fuels;
- (e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

- (i) the tangible personal property; and
- (ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations of that tangible personal property;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within

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this state the tangible personal property is:

- (i) stored;
- (ii) used; or
- (iii) otherwise consumed;
- (l) amounts paid or charged for tangible personal property if within this state the

tangible personal property is:

- (i) stored;
- (ii) used; or
- (iii) consumed; and
- (m) amounts paid or charged for a sale:
 - (i) (A) of a product transferred electronically; or
 - (B) of a repair or renovation of a product transferred electronically; and
 - (ii) regardless of whether the sale provides:
 - (A) a right of permanent use of the product; or
 - (B) a right to use the product that is less than a permanent use, including a right:
 - (I) for a definite or specified length of time; and
 - (II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

- (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
 - (A) 4.70%; and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

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(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) Subject to Subsection (2)(d)(iii), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the

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entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iii) For purposes of Subsection (2)(d)(ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(f) (i) A tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate

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decrease if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(g)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)

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through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-6.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

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(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

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(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project

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authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in the Transportation Fund created by Section 72-2-102.

(7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies, beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in

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Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); and
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) Notwithstanding Subsection (3)(a), in addition to the amount deposited in Subsection (7)(a), and until Subsection (8)(c) applies, for the 2011-12 fiscal year only, the Division of Finance shall deposit into the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); and
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(c) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7)(b), and until Subsection (8)(d) or (e) applies, when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- (i) the tax imposed by Subsection (2)(a)(i)(A);

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- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); and
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(d) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (7)(a), until Subsection (8)(e) applies, and subject to Subsection (8)(f), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Centennial Highway Fund Restricted Account created by Section 72-2-118:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- (A) the tax imposed by Subsection (2)(a)(i)(A);
- (B) the tax imposed by Subsection (2)(b)(i);
- (C) the tax imposed by Subsection (2)(c)(i); and
- (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (8)(d)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(d)(i)(A) through (D) in the 2010-11 fiscal year.

(e) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7)(b), and subject to Subsection (8)(f), when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- (A) the tax imposed by Subsection (2)(a)(i)(A);

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(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) in the 2010-11 fiscal year.

(f) (i) Subject to Subsections (8)(f)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (8)(d) or (e) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (8)(d) or (e) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (8)(d) or (e) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (8)(e)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (8)(d) or (e) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) for the current fiscal year under Subsection (8)(d) or (e).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) was deposited under Subsection (8)(d) or (e), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) in the current fiscal year under Subsection (8)(d) or (e).

(9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

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(b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal year beginning on or after July 1, 2009, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

(c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101 have been paid off and the highway projects completed that are included in the prioritized project list under Subsection 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

(11) (a) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(a)(ii), and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1).

(ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit into the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)[~~(c)~~](d).

(b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii), and in addition to any amounts deposited under Subsections (7), (9), and (10), when the general obligation bonds authorized by Section 63B-16-101 have been paid off and the highway projects completed that are included in the prioritized project list under Subsection 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions described in

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Subsection (1).

(ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)~~(e)~~(d).

(12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1) to be expended to address chokepoints in construction management.

(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into the Transportation Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)~~(e)~~(d).

(13) Notwithstanding Subsection (3)(a), beginning on July 1, 2015, the Division of Finance shall annually deposit a portion of the taxes listed under Subsection (3)(a) into the Water Resources ~~Construction~~ Conservation and Development Fund created in Section ~~73-10-8~~ 73-10-25 in an amount equal to 15% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsection (3)(a) that exceeds the revenues collected from the sales and use taxes described in Subsection (3)(a) in fiscal year 2010-11.

Section 2. Section ~~73-10-8~~ 73-10-25 is amended to read:

~~73-10-8~~ 73-10-25. ~~{Water Resources Construction Fund -- Creation and contents}~~ Contents of fund -- ~~{Use -- Investigation Account created -- Interest -- Retainage -- Loans and grants for dam safety work.~~

~~(1) There is created the~~ Investment -- Contributions.

(1) The Water Resources ~~Construction~~ Conservation and Development Fund~~{~~ which consists of:

(a) money appropriated~~{or otherwise made available}~~ to it by the Legislature;

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(b) money deposited in accordance with Section 59-12-103;

~~[(b)] (c) money {from the sale or management of the 500,000 acres of land selected for the establishment of reservoirs under Section 12 of the Utah Enabling Act}~~ received from the sale of project water and power, less operating and maintenance costs;

~~[(c)] (d) {charges assessed against water and power users pursuant to Section 73-10-6}~~ annual payments on contracts for projects constructed under Section 73-10-24 or the State Water Conservation Program; and

~~[(d)] (e) {interest accrued pursuant to Subsection (5):~~

~~—— (2) The board may authorize the use of money in the fund for the following purposes:~~

~~—— (a) to develop water conservation projects, including paying the costs of construction, engineering, investigation, inspection, and other related expenses;~~

~~—— (b) to provide loans and grants to dam owners to conduct dam safety studies;~~

~~—— (c) to provide loans and grants to dam owners:~~

~~—— (i) to upgrade dams in conformance with the minimum standards established by the state engineer in rules; or~~

~~—— (ii) for nonstructural solutions developed to meet minimum standards or lower hazard ratings that are approved by the state engineer, including the purchase of habitable structures, purchase of flood easements, and installation of early warning systems; or~~

~~—— (d) as otherwise provided by law.~~

~~—— (3) The board may provide for the repayment of the costs of investigation, engineering, and inspection out of the first money to be paid under a contract for the construction of a water project. The money repaid shall be deposited into a subaccount within~~ other money or tax revenues designated by the Legislature to be credited to the Water Resources ~~{Construction Fund known as the Investigation Account, to be used by the board for the purpose of making investigations for the development and use of the water resources of the state.~~

~~—— (4)~~ Conservation and Development Fund.

(2) All money deposited into the Water Resources Conservation and Development Fund shall be invested by the state treasurer with interest accruing to the Water Resources Conservation and Development Fund, except for payments, if any, necessary to comply with Section 148(f), Internal Revenue Code of 1986.

(3) Contributions of money, property, or equipment may be received from any political

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subdivision of the state, federal agency, water users' association, person, or corporation for use in ~~{making investigations, constructing projects, or otherwise }~~ carrying out the purposes of ~~{this section.~~

~~—— (5) All money deposited into the Water Resources Construction Fund shall be invested by the state treasurer with interest accruing to the Water Resources Construction Fund.~~

~~—— (6) If any payment on a contract with a private contractor to construct a project funded by the Water Resources Construction Fund is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.~~

~~—— (7) Loans to dam owners for dam safety studies and to upgrade dams in conformance with minimum standards shall be secured by taking water rights associated with the dam.~~

~~—— (8) The following restrictions apply to any grant made to a dam owner for a dam safety study:~~

~~—— (a) only a nonprofit mutual irrigation company or a water users association is eligible to receive a grant;~~

~~—— (b) the dam safety study shall be required by the state engineer pursuant to Section 73-5a-503; and~~

~~—— (c) the amount of any grant shall be limited to up to 50% of the costs of the dam safety study.~~

~~—— (9) (a) The board may provide grants to mutual irrigation companies and water users associations to upgrade dams in conformance with minimum standards of the state engineer. Each grant authorized by the board for the upgrade of a dam of a mutual irrigation company or water users association in conformance with the minimum standards shall be sufficient to pay for 80% of the costs to upgrade the dam.~~

~~—— (b) (i) Pursuant to guidelines specified in Subsection (9)(b)(ii), the board may provide loans or grants, or both, to entities other than mutual irrigation companies and water users associations to upgrade dams in conformance with minimum standards of the state engineer.~~

~~—— (ii) In determining the type of financial assistance to be provided to an entity other than a mutual irrigation company or water users association, the board shall consider the dam owner's ability to pay and may consider other factors including:~~

~~—— (A) the degree of hazard;~~

~~—— (B) the threat to public safety;~~

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- ~~—— (C) the state engineer's priority list of dams;~~
- ~~—— (D) the cost effectiveness of the restoration;~~
- ~~—— (E) the number of potential and actual applications for financial assistance; and~~
- ~~—— (F) the funds available.~~
- ~~—— (10) The amount of money in the fund that may be used for grants for dam safety studies shall be limited to the amount of money appropriated to the fund for that purpose.~~
- ~~—— (11) The board shall consult with the state engineer in establishing a priority list of dams to be upgraded with money in the fund.~~
- ~~—— (12) A dam owner who has initiated or completed construction approved by the state engineer to upgrade the dam in conformance with minimum standards may apply for a grant or loan from the board as reimbursement for those construction expenditures.~~

~~†~~ Section 73-10-24.

Section 3. **Effective date.**

This bill takes effect on July 1, 2012.

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Legislative Review Note

~~—— as of 1-27-12 8:16 AM~~

~~————— Office of Legislative Research and General Counsel}~~